



## Appendix A

### Child Abuse Charging Statutes

#### **Murder**

**VA Code §18.2–32**

Murder, other than capital murder, by poison, lying in wait, imprisonment, starving, or by any willful, deliberate, and premeditated killing, or in the commission of, or attempt to commit, arson, rape, forcible sodomy, inanimate or animate object sexual penetration, robbery, burglary or abduction, except as provided in §18.2–31, is murder of the first degree, punishable as a Class 2 felony.

All murder other than capital murder and murder in the first degree is murder of the second degree and is punishable by confinement in a state correctional facility for not less than five nor more than forty years.

#### **Murder of a pregnant woman**

**VA Code §18.2–32.1**

The willful and deliberate killing of a pregnant woman without premeditation by one who knows that the woman is pregnant and has the intent to cause the involuntary termination of the woman's pregnancy without a live birth shall be punished by a term of imprisonment of not less than ten years nor more than forty years.

#### **Felony murder**

**VA Code §18.2–33**

The killing of one accidentally, contrary to the intention of the parties, while in the prosecution of some felonious act other than those specified in §§18.2–31 and 18.2–32, is murder of the second degree and is punishable by confinement in a state correctional facility for not less than five years nor more than forty years.

#### **Abduction with intent to defile**

**VA Code §18.2–48**

Abduction (i) with the intent to extort money or pecuniary benefit, (ii) of any person with intent to defile such person, or (iii) of any child under sixteen years of age for the purpose of concubinage or prostitution, shall be a Class 2 felony.

#### **Rape**

**VA Code §18.2–61**

- A. If any person has sexual intercourse with a complaining witness who is not his or her spouse or causes a complaining witness, whether or not his or her spouse, to engage in sexual intercourse with any other person and such act is accomplished (i) against the complaining witness's will, by force, threat or intimidation of or against the complaining witness or another person, or (ii) through the use of the complaining witness's mental incapacity or physical helplessness, or (iii) with a child under age thirteen as the victim, he or she shall be guilty of rape.
- B. If any person has sexual intercourse with his or her spouse and such act is accomplished against the spouse's will by force, threat or intimidation of or against the spouse or another, he or she shall be guilty of rape.
- C. A violation of this section shall be punishable, in the discretion of the court or jury, by confinement in a state correctional facility for life or for any term not less than five years. There shall be a rebuttable presumption that a juvenile over the age of 10 but less than 12, does not possess the

physical capacity to commit a violation of this section. In any case deemed appropriate by the court, all or part of any sentence imposed for a violation of subsection B may be suspended upon the defendant's completion of counseling or therapy, if not already provided, in the manner prescribed under §19.2–218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.

- D. Upon a finding of guilt under subsection B in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under §19.2–218.1. If the defendant fails to so complete such counseling or therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under §19.2–218.1, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

### **Carnal knowledge of child between 13 and 15**

### **VA Code §18.2–63**

If any person carnally knows, without the use of force, a child thirteen years of age or older but under fifteen years of age, such person shall be guilty of a Class 4 felony.

However, if such child is thirteen years of age or older but under fifteen years of age and consents to sexual intercourse and the accused is a minor and such consenting child is three years or more the accused's junior, the accused shall be guilty of a Class 6 felony. If such consenting child is less than 3 years the accused's junior, the accused shall be guilty of a Class 4 misdemeanor.

In calculating whether such child is three years or more a junior of the accused minor, the actual dates of birth of the child and the accused, respectively, shall be used.

For the purposes of this section, (i) a child under the age of thirteen years shall not be considered a consenting child and (ii) "carnal knowledge" includes the acts of sexual intercourse, cunnilingus, fellatio, anallingus, anal intercourse, and animate and inanimate object sexual penetration.

### **Carnal knowledge of certain minors**

### **VA Code §18.2–64.1**

If any person providing services, paid or unpaid, to juveniles under the purview of the Juvenile and Domestic Relations District Court Law, or to juveniles who have been committed to the custody of the State Department of Youth and Family Services, carnally knows, without the use of force, any minor fifteen years of age or older, when such minor is confined or detained in jail, is detained in any facility mentioned in §16.1–249, or has been committed to custody of the Department of Youth and Family Services pursuant to §16.1–278.8, knowing or having good reason to believe that (i) such minor is in such confinement or detention status, or (ii) such minor is a ward of the Department of Youth Services, or (iii) such minor is on probation, furlough, or leave from or has escaped or absconded from such confinement, detention, or custody; he shall be guilty of a Class 6 felony.

For the purposes of this section, “carnal knowledge” includes the acts of sexual intercourse, cunnilingus, fellatio, anallingus, anal intercourse, and inanimate object sexual penetration.

### **Forcible sodomy**

### **VA Code §18.2–67.1**

- A. An accused shall be guilty of forcible sodomy if he or she engages in cunnilingus, fellatio, anallingus, or anal intercourse with a complaining witness who is not his or her spouse, or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person, and
  - 1. The complaining witness is less than thirteen years of age, or
  - 2. The act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness or another person, or through the use of the complaining witness’s mental incapacity or physical helplessness.
- B. An accused shall be guilty of forcible sodomy if (i) he or she engages in cunnilingus, fellatio, anallingus, or anal intercourse with his or her spouse, and (ii) such act is accomplished against the will of the spouse, by force, threat or intimidation of or against the spouse or another person.

However, no person shall be found guilty under this subsection unless, at the time of the alleged offense, (i) the spouses were living separate and apart, or (ii) the defendant caused bodily injury to the spouse by the use of force or violence.

- C. Forcible sodomy is a felony punishable by confinement in a state correctional facility for life or for any term not less than five years. In any case deemed appropriate by the court, all or part of any sentence imposed for a violation of subsection B may be suspended upon the defendant’s completion of counseling or therapy, if not already provided, in the manner prescribed under §19.2–218.1 if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and will be in the best interest of the complaining witness.
- D. Upon a finding of guilt under subsection B in any case tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the defendant and with the consent of the complaining witness and the attorney for the Commonwealth, may defer further proceedings and place the defendant on probation pending completion of counseling or therapy, if not already provided, in the manner prescribed under §19.2–218.1. If the defendant fails to so complete such counseling or therapy, the court may make final disposition of the case and proceed as otherwise provided. If such counseling is completed as prescribed under §19.2–218.1, the court may discharge the defendant and dismiss the proceedings against him if, after consideration of the views of the complaining witness and such other evidence as may be relevant, the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

### **Object sexual penetration**

### **VA Code §18.2–67.2**

- A. An accused shall be guilty of inanimate or animate object sexual penetration if he or she penetrates the labia majora or anus of a complaining witness who is not his or her spouse with any object,

other than for a bona fide medical purpose, or causes such complaining witness to so penetrate his or her own body with an object or causes a complaining witness, whether or not his or her spouse, to engage in such acts with any other person or to penetrate, or to be penetrated by, an animal, and

1. The complaining witness is less than thirteen years of age, or
2. The act is accomplished against the will of the complaining witness, by force, threat or intimidation of or against the complaining witness or another person, or through the use of the complaining witness's mental incapacity or physical helplessness.

[Subsections B, C, and D omitted]

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**Aggravated sexual battery****VA Code §18.2–67.3**

- A. An accused shall be guilty of aggravated sexual battery if he or she sexually abuses the complaining witness, and
  1. The complaining witness is less than thirteen years of age, or
  2. The act is accomplished against the will of the complaining witness, by force, threat or intimidation, or through the use of the complaining witness's mental incapacity or physical helplessness, and
    - a. The complaining witness is at least thirteen but less than fifteen years of age, or
    - b. The accused causes serious bodily or mental injury to the complaining witness, or
    - c. The accused uses or threatens to use a dangerous weapon.
- B. Aggravated sexual battery is a felony punishable by confinement in a state correctional facility for a term of not less than one nor more than twenty years and by a fine of not more than \$100,000.

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**Sexual battery****VA Code §18.2–67.4**

- A. An accused shall be guilty of sexual battery if he or she sexually abuses, as defined in §18.2–67.10, (i) the complaining witness against the will of the complaining witness, by force, threat, intimidation or ruse, or through the use of the complaining witness's mental incapacity or physical helplessness, or (ii) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail, and the accused is an employee or contractual employee of, or a volunteer with, the state or local correctional facility or regional jail; is in a position of authority over the inmate; and knows that the inmate is under the jurisdiction of the state or local correctional facility or regional jail, or (iii) a probationer, parolee, or a pretrial or posttrial offender under the jurisdiction of the Department of Corrections, a local community-based probation program, a pretrial services program, a local or regional jail for the purposes of imprisonment, a work program or any other parole/probationary or pretrial services program and the accused is an employee or contractual employee of, or a volunteer with, the Department of Corrections, a local community-based probation program, a pretrial services

program or a local or regional jail; is in a position of authority over an offender; and knows that the offender is under the jurisdiction of the Department of Corrections, a local community-based probation program, a pretrial services program or a local or regional jail.

- B. Sexual battery is a Class 1 misdemeanor.

### **Attempts**

### **VA Code §18.2–67.5**

- A. An attempt to commit rape, forcible sodomy, or inanimate or animate object sexual penetration shall be punishable as a Class 4 felony.
- B. An attempt to commit aggravated sexual battery shall be a felony punishable as a Class 6 felony.
- C. An attempt to commit sexual battery is a Class 1 misdemeanor.

### **Definitions**

### **VA Code §18.2–67.10**

As used in this article:

- 1. “Complaining witness” means the person alleged to have been subjected to rape, forcible sodomy, inanimate or animate object sexual penetration, marital sexual assault, aggravated sexual battery, or sexual battery.
- 2. “Intimate parts” means the genitalia, anus, groin, breast, or buttocks of any person.
- 3. “Mental incapacity” means that condition of the complaining witness existing at the time of an offense under this article which prevents the complaining witness from understanding the nature or consequences of the sexual act involved in such offense and about which the accused knew or should have known.
- 4. “Physical helplessness” means unconsciousness or any other condition existing at the time of an offense under this article which otherwise rendered the complaining witness physically unable to communicate an unwillingness to act and about which the accused knew or should have known.
- 5. The complaining witness’s “prior sexual conduct” means any sexual conduct on the part of the complaining witness which took place before the conclusion of the trial, excluding the conduct involved in the offense alleged under this article.
- 6. “Sexual abuse” means an act committed with the intent to sexually molest, arouse, or gratify any person, where:
  - a. The accused intentionally touches the complaining witness’s intimate parts or material directly covering such intimate parts;
  - b. The accused forces the complaining witness to touch the accused’s, the witness’s own, or another person’s intimate parts or material directly covering such intimate parts; or
  - c. The accused forces another person to touch the complaining witness’s intimate parts or material directly covering such intimate parts.

Fornication. Virginia Code §18.2–344. Any person, not being married, who voluntarily shall have sexual intercourse with any other person, shall be guilty of fornication, punishable as a Class 4 misdemeanor.

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**Pandering****VA Code §18.2–355**

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Any person who:

- A. For purposes of prostitution or unlawful sexual intercourse, takes any person into, or persuades, encourages or causes any person to enter, a bawdy place, or takes or causes such person to be taken to any place against his or her will for such purposes; or,
- B. Takes or detains a person against his or her will with the intent to compel such person, by force, threats, persuasions, menace or duress, to marry him or her or to marry any other person, or to be defiled; or,
- C. Being parent, guardian, legal custodian or one standing in loco parentis of a person, consents to such person being taken or detained by any person for the purpose of prostitution or unlawful sexual intercourse; is guilty of pandering, and shall be guilty of a Class 4 felony.

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**Crimes against nature****VA Code §18.2–361**

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- A. If any person carnally knows in any manner any brute animal, or carnally knows any male or female person by the anus or by or with the mouth, or voluntarily submits to such carnal knowledge, he or she shall be guilty of a Class 6 felony, except as provided in subsection B.
- B. Any person who carnally knows by the anus or by or with the mouth his daughter or granddaughter, son or grandson, brother or sister, or father or mother shall be guilty of a Class 5 felony. However, if a parent or grandparent commits any such act with his child or grandchild and such child or grandchild is at least thirteen but less than eighteen years of age at the time of the offense, such parent or grandparent shall be guilty of a Class 3 felony.

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**Incest****VA Code §18.2–366**

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- A. Any person who commits adultery or fornication with any person whom he or she is forbidden by law to marry shall be guilty of a Class 1 misdemeanor, except as provided by subsection B.
- B. Any person who commits adultery or fornication with his daughter, or granddaughter, or with her son or grandson, or her father or his mother, shall be guilty of a Class 5 felony. However, if a parent or grandparent commits adultery or fornication with his or her child or grandchild, and such child or grandchild is at least thirteen years of age but less than eighteen years of age at the time of the offense, such parent or grandparent shall be guilty of a Class 3 felony.

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**Taking indecent liberties with children****VA Code §18.2–370**

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- A. Any person eighteen years of age or over, who, with lascivious intent, shall knowingly and intentionally commit any of the following acts with any child under the age of fourteen years shall be guilty of a Class 5 felony:



1. Expose his or her sexual or genital parts to any child to whom such person is not legally married or propose that any such child expose his or her sexual or genital parts to such person; or
  2. [Repealed.]
  3. Propose that any such child feel or fondle the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; or
  4. Propose to such child the performance of an act of sexual intercourse or any act constituting an offense under §18.2-361; or
  5. Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any of the purposes set forth in the preceding subdivisions of this section.
- B. Any person eighteen years of age or over who, with lascivious intent, knowingly and intentionally receives money, property, or any other remuneration for allowing, encouraging, or enticing any person under the age of eighteen years to perform in or be a subject of sexually explicit visual material as defined in §18.2-374.1 or who knowingly encourages such person to perform in or be a subject of sexually explicit material; shall be guilty of a Class 5 felony.
- C. Any person who is convicted of a second or subsequent violation of this section shall be guilty of a Class 4 felony; provided that (i) the offenses were not part of a common act, transaction or scheme, (ii) the accused was at liberty as defined in §53.1-151 between each conviction, and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

#### **Indecent liberties by children; penalty**

**VA Code §18.2-370.01**

Any child over the age of thirteen years but under the age of eighteen who, with lascivious intent, knowingly and intentionally exposes his or her sexual or genital parts to any other child under the age of fourteen years who, measured by actual dates of birth, is five or more years the accused's junior, or proposes that any such child expose his or her sexual or genital parts to such person, shall be guilty of a Class 1 misdemeanor.

#### **Taking indecent liberties with child by person in custodial or supervisory relationship**

**VA Code §18.2-370.1**

- A. Any person eighteen years of age or older who maintains a custodial or supervisory relationship over a child under the age of eighteen, including but not limited to the parent, step-parent, grandparent, step-grandparent, or who stands in loco parentis with respect to such child and is not legally married to such child, and who, with lascivious intent, knowingly and intentionally (i) proposes that any such child feel or fondle the sexual or genital parts of such person or that such person feel or handle the sexual or genital parts of the child, or (ii) proposes to such child the performance of an act of sexual intercourse or any act constituting an offense under §18.2-361, or (iii) exposes his or her sexual or genital parts to such child, or (iv) proposes that any such child expose his or her sexual or genital parts to such person, or (v) proposes to the child that the child

engage in sexual intercourse, sodomy or fondling of sexual or genital parts with another person, or (vi) sexually abuses the child as defined in §18.2-67.10 (6), shall be guilty of a Class 6 felony.

- B. Any person who is convicted of a second or subsequent violation of this section shall be guilty of a Class 5 felony; provided that (i) the offenses were not part of a common act, transaction or scheme, (ii) the accused was at liberty as defined in §53.1-151 between each conviction, and (iii) it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation of this section.

### **Sex offenses prohibiting proximity to children**

### **VA Code §18.2-370.2**

- A. "Offense prohibiting proximity to children" means a violation or an attempt to commit a violation of (i) subsection A of §18.2-47, clause (ii) or (iii) of §18.2-48, subsection B of §18.2-361, or subsection B of §18.2-366, where the victim of one of the foregoing offenses was a minor, or (ii) subsection A (iii) of §18.2-61, §§18.2-63, 18.2-64.1, subdivision A 1 of §18.2-67.1, subdivision A 1 of §18.2-67.2, or subdivision A 1 or A 2 (a) of §18.2-67.3, or §§18.2-370, 18.2-370.1, clause (ii) of §18.2-371, §§18.2-374.1, 18.2-374.1:1 or §18.2-379.
- B. Every adult who is convicted of an offense prohibiting proximity to children when the offense occurred on or after July 1, 2000, shall as part of his sentence be forever prohibited from loitering within 100 feet of the premises of any place he knows or has reason to know is a primary, secondary or high school. A violation of this section is punishable as a Class 6 felony.

### **Causing or encouraging acts rendering children delinquent, abused, etc.; penalty**

### **VA Code §18.2-371**

Any person eighteen 18 years of age or older, including the parent of any child, who (i) willfully contributes to, encourages, or causes any act, omission, or condition which renders a child delinquent, in need of services, in need of supervision, or abused or neglected as defined in §16.1-228, or (ii) engages in consensual sexual intercourse with a child 15 or older not his spouse, child, or grandchild, shall be guilty of a Class 1 misdemeanor. This section shall not be construed as repealing, modifying, or in any way affecting §§18.2-18, 18.2-19, 18.2-61, 18.2-63, 18.2-66, and 18.2-347.

If the prosecution under this section is based solely on the accused parent having left the child at a hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this section that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within the first 14 days of the child's life.

### **Abuse and neglect of children; penalty**

### **VA Code §18.2-371.1**

- A. Any parent, guardian, or other person responsible for the care of a child under the age of eighteen 18 who by willful act or omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child shall be guilty of a Class 4 felony. For purposes of this subsection, "serious injury" shall include, but not be limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, (vi) forced ingestion of dangerous substances, or (vii) life-threatening internal injuries.



- B. 1. Any parent, guardian, or other person responsible for the care of a child under the age of eighteen 18 whose willful act or omission in the care of such child was so gross, wanton and culpable as to show a reckless disregard for human life shall be guilty of a Class 6 felony.
- 2. If a prosecution under this subsection is based solely on the accused parent having left the child at a hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this subsection that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within the first 14 days of the child's life.
- C. Any parent, guardian or other person having care, custody, or control of a minor child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall not, for that reason alone, be considered in violation of this section.

**Production, publication, sale, possession with intent to distribute financing, etc., of sexually explicit items involving children; presumption as to age; severability**

**VA Code §18.2-374.1.**

- A. For the purposes of this article and Article 4 (§18.2-362 et seq.) of this chapter, the term “sexually explicit visual material” means a picture, photograph, drawing, sculpture, motion picture film, digital image or similar visual representation which depicts sexual bestiality, a lewd exhibition of nudity, as nudity is defined in §18.2-390, or sexual excitement, sexual conduct or sadomasochistic abuse, as also defined in §18.2-390, or a book, magazine or pamphlet which contains such a visual representation. An undeveloped photograph or similar visual material may be sexually explicit material notwithstanding that processing or other acts may be required to make its sexually explicit content apparent.
- B. A person shall be guilty of a Class 5 felony who:
  - 1. Accosts, entices or solicits a person less than eighteen years of age with intent to induce or force such person to perform in or be a subject of sexually explicit visual material; or
  - 2. Produces or makes or attempts or prepares to produce or make sexually explicit visual material which utilizes or has as a subject a person less than eighteen years of age; or
  - 3. Who knowingly takes part in or participates in the filming, photographing or other reproduction of sexually explicit visual material by any means, including but not limited to computer-generated reproduction, which utilizes or has as a subject a person less than eighteen years of age; or
  - 4. Sells, gives away, distributes, electronically transmits, displays with lascivious intent, purchases, or possesses with intent to sell, give away, distribute, transmit or display with lascivious intent sexually explicit visual material which utilizes or has as a subject a person less than eighteen years of age.
  - 5. [Repealed.]

- B. 1. [Repealed.]
- C. A person shall be guilty of a Class 4 felony who knowingly finances or attempts or prepares to finance sexually explicit visual material which utilizes or has as a subject a person less than eighteen years of age.
- D. For the purposes of this section, a person who is depicted as, or presents the appearance of, being less than eighteen years of age in sexually explicit visual material is prima facie presumed to be less than eighteen years of age.
- E. The provisions of this section shall be severable and, if any of its provisions shall be held unconstitutional by a court of competent jurisdiction, then the decision of such court shall not affect or impair any of the remaining provisions.

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**Possession of child pornography****VA Code §18.2–374.1:1**

- A. Any person who knowingly possesses any sexually explicit visual material utilizing or having as a subject a person less than 18 years of age shall be guilty of a Class 6 felony. However, no prosecution for possession of material prohibited by this section shall lie where the prohibited material comes into the possession of the person charged from a law-enforcement officer or law-enforcement agency.
- B. The provisions of this section shall not apply to any such material which is possessed for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial or other proper purpose by a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, attorney, judge, or other person having a proper interest in the material.
- C. All sexually explicit visual material which utilizes or has as a subject a person less than 18 years of age shall be subject to lawful seizure and forfeiture pursuant to §18.2–374.2.
- D. Any person convicted of a second or subsequent offense under this section shall be guilty of a Class 5 felony.

**Seizure and forfeiture of property used in connection****with production of sexually explicit items involving children. VA Code §18.2–374.2**

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All audio and visual equipment, electronic equipment, devices and other personal property used in connection with the production, distribution, publication, sale, possession with intent to distribute or making of sexually explicit visual material having a person less than eighteen years of age as a subject shall be subject to lawful seizure by a law-enforcement officer and shall be subject to forfeiture to the Commonwealth pursuant to Chapter 22 (§19.2–369 et seq.) of Title 19.2 by order of the court in which a conviction under §18.2–374.1 is obtained. Notwithstanding the provisions of §19.2–381, the court shall dispose of the forfeited property as it deems proper, including awarding the property to a state agency for lawful purposes. If the property is disposed of by sale, the court shall provide that the proceeds be paid into the Literary Fund.

A forfeiture under this section shall not extinguish the rights of any person without knowledge of the illegal use of the property who (i) is the lawful owner or (ii) has a valid and perfected lien on the property.

**Use of communications systems to facilitate certain offenses  
involving children.**

**VA Code §18.2–374.3**

- A. It shall be unlawful for any person to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means for the purposes of procuring or promoting the use of a minor for any activity in violation of §18.2–370 or §18.2–374.1. A violation of this section shall be punishable as a Class 6 felony.
- B. It shall be unlawful for any person over the age of 18 to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person he knows or has reason to believe is a minor child less than 18 years of age for (i) any activity in violation of §§18.2–355, 18.2–358, 18.2–361 or §18.2–370, (ii) any activity in violation of §18.2–374.1, or (iii) a violation of §18.2–374.1:1. As used in this subsection, “use a communications system” means making personal contact or direct contact through any agent or agency, any print medium, the United States mail, any common carrier or communication common carrier, any electronic communications system, or any telecommunications, wire, computer, or radio communications system. A violation of this section shall be punishable as a Class 5 felony.

**Indecent exposure**

**VA Code §18.2–387**

Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a Class 1 misdemeanor. No person shall be deemed to be in violation of this section for breastfeeding a child in any public place or any place where others are present.

**Definitions**

**VA Code §18.2–390**

As used in this article:

- A. “Juvenile” means a person less than eighteen years of age.
- B. “Nudity” means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.
- C. “Sexual conduct” means actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact in an act of apparent sexual stimulation or gratification with a persons’ clothed or unclothed genitals, pubic area, buttocks or, if such be female, breast.
- D. “Sexual excitement” means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

- E. “Sadomasochistic abuse” means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- F. “Harmful to juveniles” means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it (a) predominantly appeals to the prurient, shameful or morbid interest of juveniles, (b) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for juveniles, and (c) is, when taken as a whole, lacking in serious literary, artistic, political or scientific value for juveniles.
- G. “Knowingly” means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both (a) the character and content of any material described herein which is reasonably susceptible of examination by the defendant, and (b) the age of the juvenile, provided however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such juvenile.

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**Child Pornography Images Registry; maintenance; access****VA Code §19.2–390.3**

- A. The Office of the Attorney General, in cooperation with the Department of State Police, shall keep and maintain a Child Pornography Registry to be located within the State Police, separate and apart from all other records maintained by either department. The purpose of the Registry shall be to assist the efforts of law-enforcement agencies statewide to protect their communities from repeat child pornographers and to protect children from becoming victims of criminal offenders by aiding in identifying victims and perpetrators. Criminal justice agencies, including law-enforcement agencies, may request of the State Police a search and comparison of child pornography images contained within the Registry with those images obtained by criminal justice agencies during the course of official investigations.
- B. The Registry shall include images of sexually explicit visual material in any form including any picture, photograph, drawing, sculpture, motion picture film, digital image or similar visual representation, presented as evidence and used in any conviction for any offense enumerated in §§18.2–374.1 and 18.2–374.1:1.
- C. Registry information provided under this section shall be used for the purposes of the administration of criminal justice or for the protection of the public in general and children in particular. Use of the information or the images contained therein for purposes not authorized by this section is prohibited and a willful violation of this section with the intent to harass or intimidate another shall be punished as a Class 6 felony.
- D. 1. The Virginia Criminal Information Network and any form or document used by the Department of State Police to disseminate information from the Registry shall provide notice that any unauthorized possession, use or dissemination of the information or images is a crime punishable as a Class 6 felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to §30–19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.
3. The Superintendent of State Police, in consultation with the Office of the Attorney General, shall promulgate regulations governing the operation and maintenance of the Registry.
4. On or before January 1, 2004, the Office of the Attorney General and the State Police shall develop and maintain a system for making certain a registry of information and images of child pornography is established, protected, and, where applicable, encrypted. The system shall be secure and not capable of being altered except by the State Police. The State Police shall remove all information that it knows to be inaccurate from the Registry.

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**Desertion and nonsupport****VA Code §20–61**

Any spouse who, without cause, deserts or willfully neglects or refuses or fails to provide for the support and maintenance of his or her spouse, and any parent who deserts or willfully neglects or refuses or fails to provide for the support and maintenance of his or her child under the age of 18 years of age, or child of whatever age who is crippled or otherwise incapacitated from earning a living, the spouse child or children being then and there in necessitous circumstances, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not exceeding \$500, or confinement in jail not exceeding 12 months, or both, or on work release employment as provided in §53.1–131 for a period of not less than 90 days nor more than 12 months; or in lieu of the fine or confinement being imposed upon conviction by the court or by verdict of a jury he or she may be required by the court to suffer a forfeiture of an amount not exceeding the sum of \$1,000 and the fine or forfeiture may be directed by the court to be paid in whole or in part to the spouse, or to the guardian, curator, custodian or trustee of the minor child or children, or to some discreet person or responsible organization designated by the court to receive it. This section shall not apply to any parent of any child of whatever age, if the child qualifies for and is totally disabled; or is an adult and meets the visual requirements for aid to the blind; and for this purpose any state agency shall use only the financial resources of the child of whatever age in determining eligibility.

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**Cruelty and injuries to children; penalty****VA Code §40.1–103**

- A. It shall be unlawful for any person employing or having the custody of any child willfully or negligently to cause or permit the life of such child to be endangered or the health of such child to be injured, or willfully or negligently to cause or permit such child to be placed in a situation that its life, health or morals may be endangered, or to cause or permit such child to be overworked, tortured, tormented, mutilated, beaten or cruelly treated. Any person violating this section shall be guilty of a Class 6 felony.
- B. If a prosecution under this section is based solely on the accused parent having left the child at a hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this section that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within the first 14 days of the child's life.

